

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ROBERT TREVINO,

Plaintiff,

v.

HEIL, HILL, and JEFF BEARD,  
et al.,

Defendants.

**Case No. 1:99-cv-05914-AWI-SMS PC**

**ORDER DENYING MOTION TO  
AMEND OR REOPEN COMPLAINT**

**Doc. 61**

On June 30, 1999, Plaintiff Robert Trevino, proceeding *pro se* and *in forma pauperis*, filed a complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. On August 28, 2002, the Court adopted findings and recommendations to grant the Defendants' motion for summary judgment since Plaintiff had failed to exhaust administrative remedies before filing suit. The Clerk of Court entered judgment and closed the case. Over twelve years later, Plaintiff seeks to amend or reopen the complaint, alleging continued retaliation on various dates, the last such incident having occurred on July 15, 2011.

Federal Rule of Civil Procedure 60(b) provides relief from a final judgment or order under certain circumstances. A party must bring its Rule 60(b) motion within a reasonable time and for

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1 certain reasons, no later than one year after entry of judgment. Thus, even if Plaintiff alleged a  
2 permissible reason for reopening the judgment, this motion would be precluded as untimely.

3 The motion does not seek to reopen the judgment for reasons relating to the former action,  
4 however. Instead, Plaintiff alleges multiple instances of retaliation that occurred thereafter. The  
5 appropriate procedure for pursuing claims that arose following the prior action is by the filing of a  
6 new complaint alleging the new claims. (The Court notes that since Plaintiff is currently detained  
7 at Salinas Valley Prison, proper venue for any new complaint is the U.S. District Court for the  
8 Northern District of California.)

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10 Plaintiff's motion to amend or reopen this case is DENIED. The Clerk of Court is directed  
11 to mail a copy of this order and a complaint form for prisoner's Section 1983 claims to Plaintiff at  
12 the new address noted on his motion: (Mr. Robert Trevino, J-64367, P.O. Box 1050, Salinas  
13 Valley Prison, Soledad, CA 93960).

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16 IT IS SO ORDERED.

17 Dated: November 21, 2014

  
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18 SENIOR DISTRICT JUDGE  
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